

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISON

**MALENA MEADOWS,
JESSICA ABSHIRE,
LESLIE SMITH, and
HEATHER ADKINS,**

PlaintiffS,

v.

Civil Action No: 2:15-cv-13370
(Judge _____)

AM & GH LLC,

Defendant.

COMPLAINT

Plaintiffs allege and say as follows:

1. That this is an action brought by the Plaintiffs on behalf of themselves and others similarly situated to recover damages due and owing to them as a direct result of the defendants violation of Federal law known as the Fair Labor Standards Act for failure to pay minimum wage to employees pursuant to 29 U.S.C. 206, Fair Labor Standards Act, Section 6. This is an individual action, as well as a proposed collective action under 29 U.S.C. §216(b), for money damages, liquidated damages equal to the amount owed, costs, injunctive relief and attorneys' fees and other relief as a result of Defendant's commonly applied policy and practice of designating Plaintiff and other similarly situated employees who were not paid overtime in violation of federal and state wage and hour laws. Plaintiffs bring this action in their individual capacity and as a class representative on behalf of all other similarly situated individual employee of the defendant who were similarly affected by defendant's violation of the Act.

2. That the plaintiff, Malena Meadows at all times material hereto, was a citizen and resident of Kanawha County, West Virginia and was employed by AM & GH LLC.
3. That the plaintiff, Jessica Abshire at all times material hereto, was a citizen and resident of Kanawha County, West Virginia and was employed by AM & GH LLC.
4. That the plaintiff, Leslie Smith at all times material hereto, was a citizen and resident of Kanawha County, West Virginia and was employed by AM & GH LLC.
5. That the plaintiff, Heather Adkins at all times material hereto, was a citizen and resident of Kanawha County, West Virginia and was employed by AM & GH LLC.
6. That at all times alleged herein, AM & GH LLC, was a West Virginia corporation and is qualified to do business and is doing business in Southern District of West Virginia, and further, AM & GH LLC operates a place of business known as the Grano Restaurant, in Kanawha County, West Virginia and is within the jurisdiction of this Court. Further AM & GH LLC is an employer engaged in interstate commerce as that term is defined under the Fair Labor Standards Act.
7. The United States District Court for the Southern District of West Virginia has subject matter jurisdiction over this suit under the provisions of 28 U.S.C. § 1331 because it raises questions under the Federal Fair Labor Standards Act, 29 U.S.C. § 216(b).
8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(c), because the Defendants may be found in this district and the challenged conduct occurred in this state.
9. Plaintiffs sue on behalf of themselves and those members of the above-defined class who have filed or will file with the Court their consents to sue. This is an appropriate collective or representative action under 29 U.S.C. § 216(b),

sometimes referred to as an "opt-in class action." Plaintiff and the putative class are similarly situated in that they are all subject to Defendants common plan or practice of not paying minimum wage and other violations of said Act.

10. That during these times, the Defendant was fully aware of the exact duties and responsibilities assigned to Plaintiffs and knew or should have known that they were therefore illegally not paid minimum wage.
11. That during these times, Defendant was also fully aware of the law regarding the payment of minimum wage.
12. Despite this knowledge Defendant willfully, and or negligently, failed and refused to correct its illegal actions and to pay minimum wage to said plaintiffs.
13. That in addition, during this time the Plaintiffs frequently worked more than 40 hours each week, but, despite their non-exempt job duties, they were never paid wages for hours actually worked in excess of 40 hours per week.
14. That the plaintiff, Malena Meadows, began employment with AM & GH LLC on January 15, 2014, and was continuously employed thereafter until the plaintiff's employment was terminated on February 26, 2014.
15. That the plaintiff, Jessica Abshire, began employment with AM & GH LLC on January 15, 2014, and was continuously employed thereafter until January 13, 2015.
16. That the plaintiff, Leslie Smith, began employment with AM & GH LLC on January 30, 2014, and was continuously employed thereafter until June 2014.
17. That the plaintiff, Heather Adkins, began employment with AM & GH LLC on March 1, 2014, and was continuously employed thereafter until June 20, 2015.

18. That without limitation the defendant would make the following specific wage and hour violations.
 - a. That the plaintiffs never received a paycheck and were told that they would only be paid in non-reported tips most of which did not equal minimum wage.
 - b. That the plaintiffs were not compensated for overtime.
19. That AM & GH LLC, in violation of said Federal law, failed to pay plaintiffs wages and benefits due and owing, which were earned by said plaintiffs.

COUNT ONE

**INDIVIDUAL CLAIM FOR VIOLATION OF THE
FAIR LABOR STANDARDS ACT**

20. That the preceding paragraphs are realleged as if restated herein.
21. Based on the foregoing, Defendant's conduct in this regard was a violation of the Federal Fair Labor Standards Act and entitles Plaintiffs to compensation for all hours in which they were not paid minimum wage, overtime hours worked, liquidated damages, attorneys' fees and court costs.
22. Based on the foregoing, Defendant's conduct in this regard was a violation of the Federal Fair Labor Standards Act and entitles Plaintiffs to compensation for all hours in which they were not paid \$2.12 as required by law for tipped employees.

COUNT TWO

**COLLECTIVE ACTION CLAIM FOR
VIOLATION OF THE FAIR LABOR STANDARDS ACT ON
BEHALF OF PLAINTIFF AND ALL OTHER SIMILARLY
SITUATED EMPLOYEES, CURRENT OR FORMER**

23. That the preceding paragraphs are realleged as if restated herein.

24. Based on the foregoing, Defendant's conduct in this regard was a violation of the Federal Fair Labor Standards Act and entitles Plaintiffs to compensation for all hours in which they were not paid minimum wage, overtime hours worked, liquidated damages, attorneys' fees and court costs.

WHEREFORE, the Plaintiff demands:

- a) Judgment against the Defendant for an amount equal to loss of all wages, plus interest;
- b) Liquidated damages;
- c) Attorney fees and costs; and
- d) Such further equitable and legal relief as this Court deems just and proper.

PLAINTIFF DEMANDS A TRIAL BY JURY.

MALENA MEADOWS et al
By Counsel

s/J. Michael Ranson

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